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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,283	06/01/2006	Juergen Dohmann	4601-0113PUS1	3130
2292 7590 11/13/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
BONK, TERESA				
ART UNIT		PAPER NUMBER		
3725				
NOTIFICATION DATE		DELIVERY MODE		
11/13/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/581,283

Applicant(s)

DOHMANN ET AL.

Examiner

Teresa M. Bonk

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 7-21 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) 16-21 and 26-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7-15, and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 20, 2009 has been entered.

Claim Objections

Claim 9 is objected to because of the following informalities: A correct spelling of the word "pressurized" is needed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 7-15, and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claim 1, there is insufficient antecedent basis (line 5) "*the obverse of* portion of said toothed portion."

Also with regards to claim 1, line 16, the limitation “said die members are in closed position” is inoperable since the die members were already in a closed position on lines 9-10. For examination purposes, the Examiner understands the line to mean “once said *punch* members are in said closed position.”

With regards to claim 7, there is insufficient antecedent basis “*the motion* of said die apparatus closing.”

With regards to claim 10, there is insufficient antecedent basis “*the cross section* of said toothed portion.”

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-12, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Harada et al. (hereafter “Harada”) (US Patent 5,746,085).

With regards to claim 1, Harada discloses a die apparatus comprising: first and second die members (1 and 10) and first and second punch members [multi-segment die 6, left segment and right segment], each having a forming surface shaped substantially as an obverse of a portion of said toothed portion [punches’ conical tip and dies’ internal teeth 17], and at least a portion of the forming surface of said first die member (1) being shaped substantially as an obverse of teeth of said rack [result as seen in Figure 5], wherein said first and second die members (1 and 10) are

moveable towards each other along a first axis (vertical axis) to a closed position thereby partially forging said toothed portion from a blank (30) placed in said die apparatus and forming a substantially closed cavity defined by said forming surfaces, as seen in Figure 2, said first and second punch members (left 6 and right 6) being disposed on opposite sides of said cavity as seen in Figure 2, between said first and second die members, and said first and second punch members being adapted to move towards each other along a second axis substantially perpendicular to said first axis, into said cavity, once said die members are in said closed position, thereby completing said forging operation, as seen in Figures 1 and 5.

With regards to claims 7 and 8, Harada discloses wherein said punch members are moveable by means of a mechanism operated by the motion of said die apparatus closing; wherein said mechanism comprises at least one wedge member (15) adapted to urge said members, into said cavity.

With regards to claim 9, Harada discloses wherein at least one of said die members is supported by a hydraulic cylinder (3) pressurized by means of said die apparatus closing.

With regards to claim 10, Harada discloses wherein the cross section of said toothed portion is substantially D-shaped [Figure 5 shows the results of the toothed portion].

With regards to claims 11 and 12, it is noted that the particular type of blank used in the apparatus is not a patentable distinction. Harada discloses an apparatus that is capable of use with a solid bar and/or a cylindrical blank.

With regards to claim 32, Harada discloses wherein said punch members (6) are moveable by means of a mechanism operated by a motion of said die apparatus closing, said mechanism comprising first and second wedge members (15) adapted to urge said first and

second punch members, respectively, into said cavity [See sequence from Figure 2 to Figure 1], and at least one of said die members is supported by a hydraulic cylinder (3) pressurized by means of said die apparatus closing.

Allowable Subject Matter

Claims 13-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa M. Bonk whose telephone number is (571)272-1901. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Teresa M. Bonk/
Examiner, Art Unit 3725